

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CONTEMPT PETITION NO.206 OF 2005

Dr.Hari Vishnu Pophale).. Petitioner

Versus

Dr.Suhas H. Pophale).. Respondent

Ms.Sandhya Jain i/b.Bharat Vaishnawa & Co. for
the Petitioner.

Mr.Prashant Beri i/b.M/s.Beri & Co. for the
Respondent.

CORAM: SMT.NISHITA MHATRE, J.

DATED: 21ST OCTOBER 2005

P.C. :

. This Petition alleges contempt of the order of the City Civil Court dated 30th March 2005. The dispute is between the father-Petitioner herein and the son-Respondent herein, both of whom are medical practitioners. The Respondent filed a Suit in the City Civil Court being Suit No.989 of 2005 in which a Notice of Motion was taken out. The Suit was for injunction against the Petitioner herein from entering the suit premises i.e. the Nursing Home. The City Civil Court while declining to grant interim relief in favour of the Respondent herein has observed thus in paragraph 10 of its order dated 30th March 2005 :

"10. On the background of this position, when defendant No.1 comes out with a specific contention that he is not inclined to disturb or dispossess the plaintiff from the Nursing Home without following due process of law, the said statement is to be accepted. It is the contention of defendant No.1 that he is having a Consulting Room in Pophale Nursing Home. If that is the case then the plaintiff should not disturb the access of defendant No.1 to his Consulting Room and whenever he intends to come to that particular consulting room the plaintiff should allow him to do so."

2. According to the Petitioner, the Respondent has committed contempt of paragraph 10 of the impugned order of the City Civil Court. It is his case in the Contempt Petition that the Respondent has refused access to him in the Consulting Room which, according to him, is to be placed at his disposal when he visits Mumbai. The Petitioner's Advocate informed the Respondent's Advocate that the Petitioner was not been provided access to the suit premises as per the order of the City Civil Court. In the mean time, the Respondent filed Appeal From Order No.600 of 2005 against the order dated 30th March 2005 passed in Notice of Motion No.830 of 2005. The order of the learned Single Judge dated 9th September 2005 in the Appeal From Order specifically modifies the order passed by the City Civil Court dated 30th March 2005. Certain elaborate arrangements are made by this order to ensure that neither party is inconvenienced and are able to

conduct their medical practice undisturbed by each other.

3. The only question is whether there is any contempt committed by the Respondent. In my view, the order of the City Civil Court does not in any manner decide or confirm the possession of the Petitioner herein and, therefore, the contempt as alleged has not been established. Moreover, in view of the fact that the impugned order itself has now been modified by this Court, the present Contempt Petition need not be entertained and is dismissed.